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PATENT
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TOWNSEND and TOWNSEND and CREW LLP

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Lynn Holm-Blagg et al.

Application No.: 10/025,092

Filed: December 19, 2001

For: FINANCIAL TRANSACTION
ACCOUNT USAGE PARAMETER
ACCESS AND CONTROL METHOD

Confirmation No. 5079

Examiner: Olabode Akintola

Technology Center/Art Unit: 3691

**APPELLANTS' BRIEF UNDER
37 CFR §41.37**

Via EFS-Web

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Sir:

Further to the Notice of Appeal mailed on November 4, 2008 for the above-referenced application, Appellants submit this Brief on Appeal.

TABLE OF CONTENTS

1. REAL PARTY IN INTEREST	3
2. RELATED APPEALS AND INTERFERENCES.....	3
3. STATUS OF CLAIMS	3
4. STATUS OF AMENDMENTS	3
5. SUMMARY OF CLAIMED SUBJECT MATTER	4
6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....	6
7. ARGUMENT	6
8. CONCLUSION.....	12
9. CLAIMS APPENDIX.....	13
10. EVIDENCE APPENDIX.....	16
11. RELATED PROCEEDINGS APPENDIX	16

1. REAL PARTY IN INTEREST

The real party in interest in this appeal is First Data Corporation of Greenwood Village, Colorado, as the Assignee of the above-identified application.

2. RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known that will directly affect, are directly affected by, or have a bearing on the Board decision in this appeal.

3. STATUS OF CLAIMS

Claims 1-4, 7-11, and 35 stand rejected by the final Office Action dated August 5, 2008 ("Final Office Action"). More specifically, claims 1-11 and 35 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-4, and 7-10 under 35 U.S.C. § 102(e) as being anticipated by U. S. Patent No. 6,636,833 to Flitcroft et al. ("Flitcroft"). Claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Flitcroft as applied to claim 3 in view of U. S. Patent No. 6,327,573 to Walker et al. ("Walker"). Claim 35 under 35 U.S.C. § 103(a) as being unpatentable over Flitcroft as applied to claim 3 in view of U. S. Patent No. 5,826,243 to Musmanno et al. ("Musmanno"). These rejections are believed to be improper and are the subject of this appeal. A copy of the claims as rejected is attached as 9. Claims Appendix.

4. STATUS OF AMENDMENTS

The claims have been amended six (6) times in this patent application. More specifically, the following is a chronology of the Appellants' amendments denoting the claims amended in each:

1. A Response to Restriction Requirement was filed on February 23, 2007 in response to the Election/Restriction Office Action mailed January 24, 2007. In this Response,

claims 1-11, species of group c, were elected, claims 5 and 6 were withdrawn, and claims 12-34 were canceled.

2. An Amendment was filed on August 2, 2007 in response to the Office Action dated May 4, 2007. In this Amendment, claim 1 was amended.

3. An Amendment was filed December 18, 2007 in response to the final Office Action dated October 18, 2007. In this Amendment, no claims were amended.

4. An Amendment under RCE was filed January 18, 2008 in response to the final Office Action dated October 18, 2007. In this Amendment claims 1-4 and 8-10 were amended and claims 35 and 36 were added.

5. An Amendment was filed July 2, 2008 in response to a non-final Office Action dated April 3, 2008. In this Amendment, claim 1 was amended and claim 36 was canceled.

6. An Amendment was filed October 2, 2008 in response to the final Office Action dated August 5, 2008. In this Amendment, claim 1 was amended.

5. SUMMARY OF CLAIMED SUBJECT MATTER

The invention generally relates to technology for financial transaction card products, such as credit and debit cards. More specifically, the invention relates to technology for “control to be effected globally for multiple [credit] cards under individual products and for the accounts individually in a multiple account relationship. An account holder can thereby adjust the operating usage parameters to account for the activities of, for example, his or her dependents as they travel and as their other circumstances and credit needs change.”

Application, page 6, lines 9-13.

The embodiment of claim 1 relates to a method of accessing usage parameters associated with a financial transaction account. Application, page 39, lines 9-12. The method includes establishing a first credit card account of a first credit product with a holder of the first account. Id., at page 15, lines 7-20. The method also includes establishing a second credit card

account of a second credit product with a holder of the second account wherein the first credit product is different from the second credit product. Id., at page 16, lines 1-7 and 19-21. A presentation instrument associated with the first account is issued. Id., at page 39, lines 14-15. An initial set of product usage parameters for said first account are established. Id., at page 39, line 19 – page 40, line 2. Control of said product usage parameters to the holder of the first account is provided. Id., at page 39, lines 18-19. Modified product usage parameters are submitted by the holder of the first account. Id., at page 40, lines 1-2. Product usage criteria by a card processing and service provider or a card issuer is established. Id., at page 9, lines 15-18. The submitted product usage criteria parameter modifications with the usage criteria are compared. Id., at page 9, line 20 – page 10, line 2; page 41, lines 1-2. When the submitted product usage parameters comply with said usage criteria, implementing the submitted product usage parameters in connection with the account. Id., at page 41, lines 3-6. However, when the submitted product usage parameters do not comply with the usage criteria, rejecting the submitted product usage parameters. Id., at page 41, lines 2-3.

In addition to the above steps, the embodiment of claim 2 forms a group with the first and second account. Application, page 19, line 4.

In addition to all the above steps, the embodiment of claim 3 involves the first account being designated as a key account. Application, page 20, lines 1-3. Primary product usage parameters for the key account are provided. Id., at page 39, line 19 – page 40, line 2. The second account is designated as a dependent account. Id., at page 19, lines 4-13. The dependent product usage parameters for the dependent account are provided. Id., at page 26, lines 5-8. The holder of the key account is provided with access to and control over the product usage parameters associated with said dependent account. Id., at page 39, line 18 – page 40, line 2.

The embodiment of claim 11 includes all of the above detailed recitations of claims 1, 2, and 3. The embodiment of claim 11 additionally includes the redemption of reward points for purchases by members of said group. Application, page 38, lines 17-19.

The embodiment of claim 35 includes all of the above detailed recitations of claims 1, 2, 3 and 11. Additionally, in claim 35, the holder of the first account is different from the holder of the second account. Application, page 20, lines 1-3.

The above summary of the claimed matter discusses elements of the claims that are subject to this Appeal and are detailed in the argument section of this brief.

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-11 and 35 under 35 U.S.C. § 112, second paragraph, are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Whether claims 1-4, and 7-10 under 35 U.S.C. § 102(e) are anticipated by Flitcroft.

3. Whether claim 11 under 35 U.S.C. § 103(a) is unpatentable over Flitcroft as applied to claim 3 in view of Walker.

4. Whether claim 35 under 35 U.S.C. § 103(a) is unpatentable over Flitcroft as applied to claim 3 in view of Musmanno.

7. ARGUMENT

1. Whether claims 1-11 and 35 under 35 U.S.C. § 112, second paragraph, are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Final Office Action rejected claims 1-11 and 35 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Final Office Action rejected claim 1 alleging that the recitation of "wherein the *credit product* is different from the second credit product" is not clear as to which of the credit products "credit

product" refers to. Accordingly, an amendment was made that is thought to fully address the reasons for the rejection. Specifically, the phrase "wherein the *credit product* is different . . ." has been amended to recite "wherein the first *credit product* is different . . ." This amendment is in accordance with the Examiner's interpretation of claim 1 in the Final Office Action. Final Office Action, page 2. The Advisory Action of October 20, 2008, (the "Advisory Action") did not indicate whether this amendment was entered. Because this amendment was made only to correct a formal matter and does not add new matter, for the purposes of this Appeal, the Applicants have assumed that the amendment has been entered and the §112 rejections have been overcome.

2. Whether claims 1-4, and 7-10 under 35 U.S.C. § 102(e) are anticipated by Flitcroft.

The Final Office Action rejected claims 1-4, and 7-10 under 35 U.S.C. § 102(e) as being anticipated by Flitcroft. The Applicant respectfully submits the following arguments pointing out significant differences between claims 1-4, and 7-10 submitted by the Applicants and Flitcroft.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully argue that Flitcroft fails to disclose each and every claimed element. For example, Flitcroft fails to disclose, either expressly or inherently, multiple accounts as recited in claim 1.

As noted previously, Flitcroft is directed to "a credit card system and method offering reduced potential of credit card number misuse." Flitcroft, column 1, lines 19-21. More specifically, Flitcroft discloses "maintaining a pool of credit card numbers which share identical formatting; assigning at least one credit card number from the pool of credit card numbers to be a

master credit card number; assigning at least one credit card number from the pool of credit card numbers to be a limited-use credit card number which is deactivated upon a use-triggered condition subsequent; and associating the master credit card number with the limited-use credit card number, while ensuring that the master credit card number cannot be discovered on the basis of the limited-use credit card number." Flitcroft, column 4, line 61 - column 5, line 4. That is, Flitcroft discloses assigning limited use numbers to an account that can be used as proxies or aliases for the real number of the account (the "master number").

However, Flitcroft does not disclose, expressly or inherently, more than one account. Rather, Flitcroft discloses only one master account having a number of different limited use account numbers. For example, FIG. 7 of Flitcroft and the accompanying description found at column 25, lines 1-63 describe a process for processing a transaction in which a limited use number is used to look up an associated master account number which is then passed to the processing system (see specifically column 25, lines 15-18). Furthermore, Flitcroft does not disclose a first account of a first credit product and a second account of a second credit product different from the first credit product, e.g., a MasterCard account and a Visa account.

The Applicants note that the Office Action cites column 6, lines 32-49 as allegedly disclosing a first account of a first credit product and a second account of a second credit product different from the first credit product. However, rather than disclosing a first account of a first credit product and a second account of a second credit product different from the first credit product, this section of Flitcroft seems to be a general definition of the term credit card as used in the description. Furthermore, the cited section notes:

"It will be appreciated that an account may have many master credit cards in the sense of this specification. For example a corporation may provide many of its employees with credit cards but essentially each of these employees holds a master credit card even if there is only one customer account. Each of these master credit cards will have a unique master credit card number, which set of master credit card numbers will be linked to the account. Similarly, in families,

various members of the family may hold a master credit card all of which are paid for out of the **one customer account**."

Flitcroft, column 6, lines 43-52, emphasis added.

Thus, Flitcroft specifically discloses only one account, not a first account of a first credit product and a second account of a second credit product different from the first credit product.

In response to these arguments, the Final Office Action points to column 6, lines 32-53 which generally recite that different types of cards may be issued. However, the citations and the arguments of the Office Action and Advisory Action stop short of addressing the immediately following portion of Flitcroft quoted above, namely, column 6, lines 43-52 which point out that while multiple cards may be issued, the customer has only one account to which these cards are linked. Thus, the Applicants respectfully maintain that Flitcroft discloses only one master account having a number of different limited use account numbers.

The Advisory Action maintained the rejection of the Final Office Action based on the same citation, but changed its reasoning, stating: "[t]he steps of establishing a first credit card account of a first credit product with a holder of the first account and establishing a second credit care account with of [sic] a second credit product simply as establishing different credit accounts with credit card providers." Advisory Action, page 2. The Advisory Action then provided an example, stating: "the American Express® can establish a credit account for a corporation and/or family while MasterCard® can establish another credit account for the same corporation and/or family." Id. This example is not taught by the citation to Flitcroft, and no further explanation was provided as to how this example relates to Flitcroft.

Claim 1, upon which claims 2-4, 7-11, 35, and 36 depend, recites in part "establishing a first credit card account of a first credit product with a holder of the first account; establishing a second credit card account of a second credit product with a holder of the second account wherein the credit product is different from the second credit product." Flitcroft does

not disclose, expressly or inherently, a first account of a first credit product and a second account of a second credit product different from the first credit product. Rather, Flitcroft describes only one account which may have a number of associated limited use numbers that are used as aliases for the master account number. For at least these reasons, the rejection should be withdrawn and claims 1-4, 7-11, 35, and 36 should be allowed.

Further, Flitcroft fails to disclose, either expressly or inherently, group accounts as recited in claim 2. Claim 2 recites: "a group with said first account and second account." The Final Office Action cited to substantially the same portion of Flitcroft as in block quotations above. As previously stated, Flitcroft discloses only one master account having a number of different limited use account numbers. Claim 2 clearly references a group formed with a first account and a second account.

Moreover, Flitcroft fails to disclose, either expressly or inherently, group accounts as recited in claim 3. Claim 3 recites: "designating the first account as a key account; providing primary product usage parameters for said key account; designating the second account as a dependent account; providing dependent product usage parameters for said dependent account; and providing the holder of said key account with access to and control over the product usage parameters associated with said dependent account." The Final Office Action again cited to Flitcroft, however the cited portions of the reference only recite the use of multiple credit card numbers associated with one account. Flitcroft, column 16, lines 15-24; Figures 4-6. Therefore, because Flitcroft only recites the use of one account, Flitcroft does not disclose (1) usage parameters for a key account, (2) a second account, (3) the second account being designated a dependent account, (4) dependent product usage parameters being provided for the dependent account, and (5) the holder of said key account with access to and control over the product usage parameters associated with said dependent account.

The Final Office Action and Advisory Action further contend that "there is no functional relationship between the second account and the other steps in the claim." The

Applicants respectfully directs attention to claims 2 and 3, for example, as discussed above. Neither the Final Office Action nor the Advisory Action addressed this argument.

Flitcroft does not disclose, expressly or inherently, a first account of a first credit product and a second account of a second credit product different from the first credit product, as discussed in reference to claims 2 and 3. Rather, Flitcroft describes only one account which may have a number of associated limited use numbers that are used as aliases for the master account number. For at least these additional reasons, the rejection should be withdrawn and claims 2 and 3 should be allowed. Further, claims 7-11, 35, and 36 depend, either directly or indirectly, upon claims 2 and 3, and should be allowed at least based upon their dependence on an allowable base claim.

3. Whether claim 11 under 35 U.S.C. § 103(a) is unpatentable over Flitcroft as applied to claim 3 in view of Walker.

The Final Office Action rejected claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Flitcroft as applied to claim 3 in view of Walker. The Applicants respectfully requests withdrawal of the rejection and allowance of the claim for at least the reason that claim 11 depends upon claim 1 that is thought to be allowable as described in detail above.

4. Whether claim 35 under 35 U.S.C. § 103(a) is unpatentable over Flitcroft as applied to claim 3 in view of Musmanno.

The Final Office Action has rejected claim 35 under 35 U.S.C. § 103(a) as being unpatentable over Flitcroft as applied to claim 3 in view of Musmanno. The Applicants respectfully requests withdrawal of the rejection and allowance of the claim for at least the reason that claim 35 depends upon claim 1 that is thought to be allowable as described in detail above.

8. CONCLUSION

For these reasons, it is respectfully submitted that the rejection should be reversed.

Respectfully submitted,

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9. CLAIMS APPENDIX

1. (Previously Presented) A method of accessing usage parameters associated with a financial transaction account, the method comprising:

- establishing a first credit card account of a first credit product with a holder of the first account;
- establishing a second credit card account of a second credit product with a holder of the second account wherein the first credit product is different from the second credit product;
- issuing a presentation instrument associated with said first account;
- establishing an initial set of product usage parameters for said first account;
- providing control of said product usage parameters to the holder of the first account;
- submitting modified product usage parameters by the holder of the first account;
- establishing product usage criteria by a card processing and service provider or a card issuer;
- comparing the submitted product usage parameter modifications with the usage criteria;
- if the submitted product usage parameters comply with said usage criteria, implementing same in connection with the account; and
- rejecting the submitted product usage parameters if same do not comply with the usage criteria.

2. (Previously Presented) The method of Claim 1 wherein said account comprises a first account, and wherein the method further comprises:

- forming a group with said first account and said second account.

3. (Previously Presented) The method of Claim 2, further comprising:

- designating the first account as a key account;
- providing primary product usage parameters for said key account;

designating the second account as a dependent account;
providing dependent product usage parameters for said dependent account; and
providing the holder of said key account with access to and control over the
product usage parameters associated with said dependent account.

4. (Previously Presented) The method of Claim 3, further comprising
creating group master data financial records associated with said group.

5. (Withdrawn) The method of Claim 1 wherein said product usage
parameters include ranges of time during which said presentation instrument can be utilized.

6. (Withdrawn) The method of Claim 1 wherein said product usage
parameters include geographic restrictions on the usage of said presentation instrument.

7. (Original) The method of Claim 1 wherein said product usage parameters
include restrictions on the types of goods and services which can be purchased with said
presentation instrument.

8. (Previously Presented) The method of Claim 3, further comprising:
establishing a credit line for said group with a group credit limit;
establishing a dependent credit line for said dependent account with a dependent
account credit limit; and
said credit limits comprising product usage parameters.

9. (Previously Presented) The method of Claim 3, further comprising:
arranging for allocation of account payments among said key and dependent
accounts; and
allocating account payments among said key and dependent accounts.

10. (Previously Presented) The method of Claim 3, further comprising:

providing statements for said key and dependent financial accounts; and
providing the key account holder with access to the information provided in
conjunction with such statements.

11. (Original) The method of Claim 3 wherein said product usage parameters
include the redemption of reward points for purchases by members of said group.

12.-34. (Canceled)

35. (Previously Presented) The method of claim 3, wherein the holder of the
first account is different from the holder of the second account.

36. (Canceled)

10. EVIDENCE APPENDIX

None.

11. RELATED PROCEEDINGS APPENDIX

None.